HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No.25649 OF 2006

Between:

Federation of Minorities Private Institutions,
Dabirpura, Hyderabad, represented by its
Secretary, Mohd. Abid Ali. …Petitioner

And

The Government of Andhra Pradesh,
represented by its Principal Secretary,
School Education Department, Secretariat,
Hyderabad and another. ...Respondents

: O R D E R :

Counsel for the petitioner : Sri Mohd. Abid Ali

Counsel for the respondents : Government Pleader for School Education

2nd August, 2007

Per G.S.SINGHVI, C.J.

The petitioner, which claims to be representative body of minority private institutions, has invoked the jurisdiction of this Court by way of public interest litigation and prayed for striking down Sections 20, 21 and 33 of the Andhra Pradesh Education Act, 1982 (for short, 'the Act') and Rules 4, 5 and 6 of the Andhra Pradesh Educational Institutions (Establishment, Recognition, Admission and Control of Schools under Private Management) Rules, 1993 (for short, 'the Rules') and also for issue of a mandamus to the respondents not to enforce these provisions against the minority institutions in the State.

In the affidavit filed by him, Sri Mohd. Abid Ali, Secretary of the petitioner Federation has referred to the various sub-sections of Section 20 of the Act and the Rules as amended vide notifications dated 11-5-2006 and 11-9-2006 and averred that the conditions incorporated in the Rules for establishment and recognition of the private schools are highly arbitrary. He has then referred to order dated 26-4-2006 passed in Writ Petition No.2058 of 2006 and pleaded that the actions taken by the respondents in the light of the directions given by the Court are totally arbitrary and unjustified. In paragraph 11 of his affidavit, Sri Mohd. Abid Ali has referred to the provisions contained in Section 20(1) of the Act and averred that Rule 6 has been framed with a view to put unreasonable restriction on the right of the minorities to establish educational institutions. He has further averred that the time- schedule fixed for processing of the applications is unreasonable and, on that account, the persons intending to establish educational institutions are deprived of their legitimate right under the Constitution. The deponent

has also criticised the scale of fee required to be deposited along with the application for establishing the school.

In the counter affidavit filed by him, Sri C.B.S. Venkataramana, Principal Secretary to Government, School Education Department, has made reference to the conditions enumerated in Sections 20 and 21 of the Act, the Rules and order dated 29-6-2006 passed in Writ Petition No.2058 of 2006 and averred that the survey got conducted by various District Educational Officers in the State revealed that 9231 schools are being run in the State without proper recognition. He has then referred to the judgment of this Court in **Society of St. Ann's v. Secretary to Government (Edn.)**[1] and of the Supreme Court in **All Bihar Christian Schools Association v. State of Bihar**[2] and averred that provision meant for grant of recognition to the private schools subject to fulfillment of the conditions prescribed by the State cannot be termed as arbitrary. He has also referred to order dated 31-1-2007 passed in Writ Petition No.11747 of 2006 and batch and averred that the conditions laid down by the rule making authority are meant for the benefit of the student community and the minority educational institutions cannot claim privilege of establishing and running schools without providing basic amenities like adequate place, laboratories, libraries, drinking water, sanitary facilities etc.

We have heard Sri Mohd. Abid Ali and the learned Government Pleader. In our opinion, the Federation does not have the locus to seek relief in terms of the prayer made because it has neither sought establishment of a private school nor it is running such school. Though the petitioner has made elaborate reference to the provisions of the Act and the Rules and has tried to project the inability of the people belonging to the minorities to provide adequate funds for the

purpose of establishing the schools and has also criticised the time-schedule fixed in Rule 6 of the Rules, we are not inclined to entertain the petitioner's challenge to the provisions of the Act and the Rules. In **Guruvayoor Devaswom Managing Committee v. C.K. Rajan**[3], the Supreme Court reviewed various precedents on the ambit and reach of the court's power to entertain petitions filed by way of public interest litigation and laid down several principles including the following:

> "(x) The Court would ordinarily not step out of the known areas of judicial review. The High Court although may pass an order for doing complete justice to the parties, it does not have a power akin to Article 142 of the Constitution of India.
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> The Court will not ordinarily transgress into a policy. It shall also take utmost care not to transgress its jurisdiction while purporting to protect the rights of the people from being violated.
>
> (xi) Ordinarily, the High Court should not entertain a writ petition by way of public interest litigation questioning the constitutionality or validity of a statute or a statutory rule.
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> It is intended to lay down any strict rule as to the scope and extent of a public interest litigation, as each case has to be judged on its own merits. Furthermore, different problems may have to be dealt with differently."

By applying the principles laid down in the above noted case, we hold that the petitioner is not entitled to seek a direction for striking down Sections 20, 21 and 33 of the Act and Rules 4, 5 and 6 of the Rules and the writ petition is liable to be dismissed. The reason for this conclusion is that the petitioner has neither listed the minority institutions which are its members nor given particulars of the action taken by the respondents against any of its members. That apart, a legislation or delegated legislation cannot be struck down at the instance of a party whose right or interest is directly or indirectly not affected by the impugned legislative instrument.

In the result, the writ petition is dismissed. However, it is made clear that this order will not preclude any person or body seeking to

establish private minority educational institution to seek intervention of the Court, if the conditions imposed by the competent authority are found to be constitutionally impressible, irrational, arbitrary or discriminatory.

G.S. SINGHVI, C.J.

2nd August, 2007

C.V. NAGARJUNA REDDY, J.

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[1] 1993 (2) ALT 610 (FB)
[2] (1988) 1 SCC 206
[3] (2003) 7 SCC 546